

FEDERAL BUREAU OF INVESTIGATION
FREEDOM OF INFORMATION/PRIVACY ACTS SECTION
COVER SHEET

SUBJECT: American Civil Liberties Union

FEATURE PRECS SERVICE

AMERICAN CIVIL LIBERTIES UNION, 170 FIFTH AVENUE, NEW YORK

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WEEKLY BULLETIN #1779

Alan Reitman, Assistant Director
In Charge of Public Relations
December 3, 1956

ACLU HAILS GOV'T LEGAL PARLEY TO ENFORCE NON-DISCRIMINATION IN INTRA-STATE TRANSIT

The American Civil Liberties Union hailed recently the announcement of Attorney General Herbert Brownell, Jr. that the Justice Department will hold a conference with U. S. Attorneys in southern states to work out methods of compliance with the United States Supreme Court's decision barring discrimination in intra-state bus transportation.

The Union, in a telegram from its executive director, Patrick Murphy Malin, said the Department's action "demonstrates that leadership at the highest government level will not be forfeited."

"The high court's decision was in keeping with its recent rulings that segregation and discrimination are unconstitutional and have no place in American life. While there are bound to be difficulties to overcome in achieving compliance, the Federal Government has an important role to play in assuring that the law is upheld. The conference you have called will provide encouragement to all those who support the court's decision."

In scheduling the December 10 conference, the Attorney General said:

"Prior to the Supreme Court's decision a number of states, counties, municipalities and other agencies of local government had adopted discriminatory measures of this kind. It is now clear that any such law, statute, ordinance or regulation must be regarded as a dead letter."

"It is also clear that the enforcement or observance of any such discriminatory measure by any common carrier of passengers will constitute in the future and in the light of the unmistakable declaration of the federal courts a wilful deprivation by the carrier of the constitutional rights, privileges and immunities of those discriminated against and a crime against the United States. Title 18, United States Code, section 242. Anyone who commands, induces, procures, counsels, aids or abets the carrier in the commission of any such crime is equally guilty. Title 18, United States Code, section 2."

U. S. Attorneys from Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia were invited.

NEW KIND OF LOYALTY OATH PROBLEM ARISES IN CALIF.

A different sort of penalty for refusal to sign a loyalty oath has turned up in California.

There the American Civil Liberties Union of Northern California learned that a 23-year-old multilith operator, Marion Syrek, was denied unemployment compensation because he was fired from his non-sensitive job in private business for declining to sign an oath. Such oaths were not required by law.

Months ago, when Syrek first applied for unemployment insurance benefits, he informed the State Unemployment Service that he did not want to seek a civil service job because he opposed loyalty oaths in principle. Weeks later he saw and answered an advertisement for a multilith operator, inserted in a newspaper by Arthur Anderson & Company, a public accountant and auditor.

Syrek was hired but ran into difficulty three days later when he was asked to sign a loyalty oath. He declined, was fired, and applied for unemployment compensation. It was denied on grounds that his refusal to comply constituted "misconduct" on the job and quitting "without good cause." This decision was the California Unemployment Appeals Board.

REGULAR WEEKLY SERVICE. FURTHER INFORMATION FURNISHED

"When I accepted employment it was not conditioned on my signing a loyalty oath," Syrek commented. "I believe that no employer has the right to inquire into my political beliefs and associations. The fact that loyalty oaths are required by law for government employees and defense workers does not justify their arbitrary extension into other fields."

The accountant firm said it was company policy to require loyalty statements from all employees even if they do not work on the books of organizations handling classified contracts. He did not speculate whether Syrek would ever have had to obtain official security clearance if he had remained with the firm as a multilith operator.

The Northern California ACLU decided to test the action by seeking a writ of mandate in the San Francisco Superior Court. It charged that Syrek was deprived of property without due process of law.

"The statement required of Mr. Syrek was vague and indefinite and had no reasonable relationship to the job Mr. Syrek was to perform," according to Ernest Besig, director of the ACLU affiliate. "Further, the extracting of loyalty oaths by private employers not engaged in sensitive work, and not required by law, is an infringement of freedom of speech and assembly."

TEST OF NODL BOOK LIST STARTED IN FEDERAL COURT

Publishing and civil liberties circles are following with special interest a book censorship case started in Michigan this fall.

Five publishers of paper-bound books have filed suit in Federal District Court at Detroit seeking an injunction against the prosecuting attorney of St. Clair County, Michigan - Wilbur v. Hamm. Hamm had ordered the two wholesale news distributors of Port Huron (St. Clair County), Mich., not to handle any books or magazines listed as objectionable by the National Organization for Decent Literature, a Roman Catholic organization. Among the titles so banned were "The Search for Bridey Murphy" (on theological grounds) and a sex book for teen-agers approved by the Detroit Council of Churches, parent-teacher groups, and Parent's Magazine.

Suit was brought by Bantam, Pocket Books, Popular Library, Dell and the New American Library, all of which have titles on the NODL list. Their petition seeks \$50,000 damages as well as an injunction.

In a separate but related action, Playboy magazine was granted an injunction preventing Hamm from banning future issues of that publication.

After the book publishers' suit was filed and preliminary hearings had been held, Father Paul J. Hickey, NODL moderator in Detroit, announced that henceforth the group would not release its lists of objectionable books to civic or religious agencies.

"The NODL wishes to emphasize the fact that the prosecutor's action (in publishing the list) was his voluntary act," Father Hickey commented. "The NODL denies that it 'persuaded' or in any way, directly or indirectly, exercised pressure on the prosecutor to adopt the NODL list."

"There never has been and there never will be threats of illegal pressure or of boycott. We do, however, intend to exercise to the fullest the privileges of our citizenship to protest until the city is rid of indecent and lascivious publications."

In their petition, the five book publishers claimed that Hamm exceeded his permissible authority in adopting the NODL list as an official guide and that his action deprived them of property without due process of law.

While commending the NODL for seeking to improve the standards of books and magazines offered by newsstands, The Detroit News commented editorially:

"...the activities of the NODL are deeply alarming. The organization operates normally as a citizens' pressure group. Its members, equipped with a list of offensive publications, visit merchants and demand the removal from the shelves of proscribed works. If the merchant refuses, they threaten boycott. But few refuse. There are plenty of paper books and magazines and no one seems obviously injured if some are banned...."

PHILADELPHIA DISTRICT ATTORNEY INSTRUCTS STAFF AGAINST RELEASE OF WIRE TAP DATA

Because of protests by the American Civil Liberties Union's G. Branch, State District Attorney Victor H. Blanc has instructed his press verbatim transcript of wire tap information.

Blanc informed the ACLU that transcripts of telephone conversations between alleged racketeers and other persons were given to the press last summer without his authority or knowledge while he was absent from Philadelphia. He added that, like the ACLU branch, he regards the act as a violation of civil liberties.

While still condemning the release of the transcripts, the ACLU cancelled plans to ask Attorney General Herbert Brownell if the release violated the Federal Communications Act. Blanc held that the statute does not apply to state law enforcement officers.

"In light of the district attorney's orders against further release of verbatim transcripts, (the ACLU board of directors) believes that no useful purpose would be served by requesting the Attorney General of the United States for a declaratory ruling concerning the legality of such releases," said a statement from the Philadelphia branch.

It added that since "important areas of difference" on wire tapping will exist between ACLU and law enforcement officers, including Blanc, a public hearing would be scheduled soon for general discussion of the problem.

Blanc is a member of the Philadelphia ACLU board and until recently was treasurer of the branch. ACLU emphasized that election of a new treasurer had no connection with the wire tap controversy.

Release of the transcripts had been condemned also by the committee on civil rights of the Philadelphia Bar Association. Both that group and ACLU pointed out that the names of reputable persons who had no relation to crime had been mentioned in the racketeers' conversations recorded.

SOUTHERN CALIF. ACLU ASKS STRENGTHENING OF SEARCH-SEIZURE DECISION

The American Civil Liberties Union's Southern California Branch has urged the California State Supreme Court to reaffirm an earlier ruling that evidence secured illegally cannot be introduced in court.

It so pleaded in a friend of the court brief dealing with the case of Beverly Joy Trowbridge, who was taken in custody on suspicion of having marijuana in her apartment. The arresting officer acted on information from an unnamed informer "known to be reliable to the arresting officer."

Information of that nature does not justify an arrest without a search warrant, the brief declared.

"There must be a means of aiding police officers without presenting them a formula by which the safeguard of the constitutional provisions are by-passed and rendered ineffectual," it added. "If the officers are not able to independently investigate because of the nature of the case, then there is no reason why they cannot resolve this difficulty by seeking the issuance of a search warrant."

Or, it said, police should identify an informer, prove his reliability, or present independent findings supporting the informer.

"How the veracity of the arresting officer could be tested has not yet been demonstrated," the brief continued. "Confronted by this unverified and untested statement even the scrupulous law enforcement agent would soon drift into the pattern of this formula and our constitutional safeguards would become devoid of significance."

While arrest of persons on information they possess narcotics is not unlawful, the brief stated, such an act does not automatically justify a subsequent search. The search must be reasonable and incidental to the arrest.

CIVIL LIBERTIES BRIEFS

Among the many conflicts that arose during the recent presidential campaign was one involving stickers on automobiles. The Securities Exchange Commission issued a memorandum declaring that while the use of campaign stickers was not illegal it was regarded as "contrary to the spirit of the law." The SEC chairman--exempt from the Hatch Act--had four Republican stickers on his station wagon; he said he would not object to stickers on SEC employees' vehicles. And a Civil Service Commission spokesman said that group felt car stickers were merely expressions of opinion, and did not constitute political activity...ACLU praised AFL-CIO President George Meany for promptly ordering an investigation of the alleged kidnapping and beating of New York local officials of the International Union of Bakery & Confectionery Workers in connection with an internal union dispute. Said ACLU: "Your action certainly makes clear organized labor's determination to deal with such problems, by which it will continue to function in a free and democratic manner as an integral part of our

The Attorney General

December 3, 1956

Director, FBI

EDITORIAL "DANGEROUS LULLABY"

I am enclosing a Photostat of an editorial entitled "Dangerous Lullaby" which appeared in "The Indianapolis Star," November 26, 1956, and which I thought might be of interest to you.

~~Enclosure~~

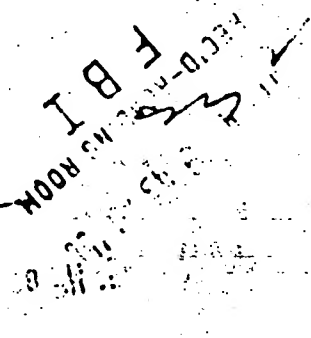
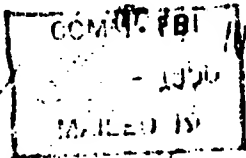
cc - Mr. William P. Rogers (with copy of enclosure)
Deputy Attorney General

cc - Assistant Attorney General
William F. Tompkins (with copy of enclosure)

NOTE: In regard to this editorial the Director noted, "Send copies to A. G. , Rogers & Tompkins."

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Dangerous Lullaby

Just a crackpot revolutionary plant "a la" Capitol Hill in Washington and light the fuse. It can be considered dangerous to American institutions. There is greater danger in one who plots subversion as conquered the satellite countries of Europe, but carefully refrains from lighting a fuse prematurely.

These are the questions, as we see it, put before the United States Supreme Court by the American Civil Liberties Union recently. The ACLU said that Smith Act convictions of Communist leaders in this country should be thrown out because American institutions are so strong that home-grown Communists cannot cause any "clear and present" danger to them.

These American institutions, the ACLU argued, "have so well and so consistently demonstrated their effectiveness in meeting ordinary needs, as well as withstanding the tremendous impact of two-world wars, a devastating depression, and the continuing challenge of world-wide unrest, their stability and permanence would seem to be virtually unassailable...."

The "clear and present danger" doctrine is a recognized part of American law, but it is scarcely at home in this argument. What the ACLU is saying, in effect, is that since the Communists cannot hope for success in taking over the American government, we ought to let them try without interference. If we followed that road, we should never see danger with the naked eye until it was too late.

The importance of the ACLU attitude, however, points more in another direction. Next to subversion itself, the greatest danger this country can face is an attitude by its people and officials that our way of life is so well established, nothing needs be done to protect it. Once we begin to believe that some magic power makes our institutions "unassailable," and that we need put in no effort to safeguard them from internal erosion, then we're on the way to losing them.

Except for that eternal vigilance which is the price of liberty, we could awake some morning to find not even a pretense left of the things we thought were so strong and permanent. Freedom can be lost in war, but it is more often sold, given away or slept away. The doctrine of "unassailable" institutions induces a dangerous sleep. We cannot afford to accept it.

Re: Smith Act Case

161-190-✓
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161-190-✓
The Indianapolis Star
Indianapolis, Indiana
Monday, November 26, 1956

Editorial

Editor - James A. Star

Publisher - Eugene C. Barker

Added in files to C. G. Rogers
Nov 26 1956

The FBI and Civil Liberties

by Irving Ferman

72046

A NATIONAL POLICE could infect the organism of a government of law, despite the anti-bodies in our Bill of Rights and in our system of checks and balances. Our most effective anti-body always is the focusing of an informed public opinion. This is why we should be grateful for Mr. Whitehead's excellent new book. Whitehead writes

The FBI Story, by Don Whitehead
(Random House; \$4.95).

about the FBI's almost-half-century history in highly readable style but his chief virtue is the sensitive historiographic sense he displays.

The FBI has been criticized most sharply for its collecting intelligence data on non-criminal conduct of Communists and Fascists. Whitehead shows that the FBI's activities in regard to subversives were not self assigned. He discloses for the first time in print that President Roosevelt called J. Edgar Hoover to his office on the summer morning of August 24, 1936, to express concern over the activities of Communists and Fascists. It was the President, and not Mr. Hoover, who stressed the need for developing a broad intelligence-picture of these activities. Even then, Mr. Hoover emphasized that he had no specific authority to make such general investigations. However, the authority was found through the instrumentality of Cordell Hull and the State Department which, under law, could request investigations from the Justice Department.

Mr. Hoover, in an instructional letter to his agents issued on September 5, 1936, very carefully outlined the scope of the Bureau's new investigatory assignment:

The Bureau desires to obtain from all possible sources information concerning subversive activities being conducted in the United States by Communists, Fascists and representatives or advocates of other organizations or groups advocating the overthrow or replacement of the Government of the United States by illegal methods. No investigation should be initiated into cases of this kind in the absence of

specific authorization from the Bureau.

Whitehead, therefore, makes it clear that the FBI has been delegated clear authority to perform its intelligence functions. But has it acted, as FBI critics maintain, in Gestapo-like fashion? I would answer unequivocally in the negative.

The adoption of the Truman Loyalty Program in 1948, and the Eisenhower Security Program in 1953 has vastly extended the activity of the FBI, and the Bureau since has been under attack because of its insistence that its informants remain confidential, and not be subject to confrontation and cross-examination.

On this, Whitehead quotes what Hoover advised the Truman Loyalty Review Board early in the formulation of its operating policies:

Our responsibility is limited to the securing of facts. I stated that the FBI was the investigator, not the prosecutor, judge or jury. I informed the Board that we planned to make our Special Agents available to testify to those matters of which they had personal knowledge and that we would list the names and addresses of those persons interviewed who did not object to their identities being known. I stated that whenever an FBI Agent interviews a person who says that he is giving information in strict confidence, his confidence must be respected.

I pointed out that as an alternative, we could explain our mission to each person and explain that he might be called as witness and be required to testify in public and then report only such information as was furnished without any restrictions as to source. I advised the Loyalty Review Board that this was a matter of policy for the Board to determine.

Whitehead's reporting of the Hoover view establishes a framework in which criticism of the present security proceedings might be more responsively directed than it has been in the past.

Whitehead properly devotes about one-eighth of his book to the internal operations of the FBI, as developed by

Mr. Hoover. Personnel selection, the functioning of its academy, its integrative use of chemistry, physics, metallurgy, electronics, and engineering in developing crime laboratory techniques are all dealt with. Whitehead also devotes space to a little known aspect of FBI work: its Civil Rights Training Schools in which 22,000 local police officials have been oriented and indoctrinated on this touchy and vastly important question.

Some of my mentors in the American Civil Liberties Union remember vividly the horrendous vigilantism of the World War I organization whose 250,000 members were permitted to wear badges inscribed "American Protective League, Auxiliary to the US Department of Justice." These self-styled sleuths were used by the Justice Department to conduct "slacker" raids, one of which involved rounding up some 50,000 citizens in New York.

When a proposal was made by the American Legion in 1940 to use their Posts as investigative units (and this would have most certainly led to a revival of the vigilantism of World War I) it was intelligently rejected by the Justice Department. By contrast in our World War II experience, the FBI's handling of the draft-evasion problem with particular reference to the conscientious objectors led the American Civil Liberties Union in 1943 to comment:

The striking contrast between the state of civil liberty in the first eighteen months of World War II and in World War I offers strong evidence to support the thesis that our democracy can fight even the greatest of wars and still maintain the essentials of liberty.

As Whitehead accurately sums it up:

The FBI represents the people's effort to achieve government by law. It is an agency of justice. And the FBI in the future will be as strong or as weak as the people demand it to be. No more. No less.

Notes on Contributors

CHARLES CURRAN is a regular contributor to *The Spectator*, *Encounter* and other British periodicals. IRVING FERMAN is director of the District of Columbia office of the American Civil Liberties Union.

61-198-628
ENCLOSURE

December 7, 1956

Mr. Irving Ferman
American Civil Liberties Union
412 Fifth Street, Northwest
Washington, D. C.

Dear Mr. Ferman:

I have just had the privilege of reading your review of the Don Whitehead book, "The FBI Story," which appeared in the December 10 issue of "The New Republic."

It is refreshing indeed and I did want to express to you my personal appreciation for your sympathetic interest and helpful assistance in recent months. I am sure that your efforts have been most effective in bringing about a better understanding of our problems.

With best wishes and kind regards,

Sincerely yours,
J. Edgar Hoover

cc-Mr. Jones

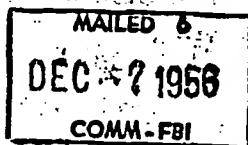
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